

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Russo	Team: Squad #10	CCRB Case #: 202105041	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/12/2021 10:30 AM	Location of Incident: Inside § 87(2)(b)	Precinct: 103	18 Mo. SOL 2/12/2023	EO SOL 2/12/2023	
Date/Time CV Reported Thu, 08/12/2021 12:39 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 08/24/2021 12:52 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Amanda Marrero	16252	957812	103 PCT
2. PO Yonatan Schultz	15957	963750	103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Sesame James	02943	915950	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Amanda Marrero	Abuse: Police Officer Amanda Marrero stopped § 87(2)(b)	§ 87(2)(b)
B. PO Amanda Marrero	Abuse: Police Officer Amanda Marrero threatened to arrest § 87(2)(b)	§ 87(2)(b)
C. PO Amanda Marrero	Abuse: Police Officer Amanda Marrero refused to provide her name to § 87(2)(b)	§ 87(2)(b)
D. PO Yonatan Schultz	Abuse: Police Officer Yonatan Schultz refused to provide his name to § 87(2)(b)	§ 87(2)(b)
E. PO Amanda Marrero	Abuse: Police Officer Amanda Marrero failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)

Case Summary

On August 12, 2021, § 87(2)(b) filed this complaint with the Internal Affairs Bureau. On August 24, 2021, the CCRB received the complaint.

On August 12, 2021, at approximately 10:30 a.m., Police Officers Amanda Marrero and Yonatan Schultz, of the 103rd Precinct, responded to the UPS Franchise store on § 87(2)(b) in Queens regarding a dispute. When § 87(2)(b) refused to notarize a customer's documents, PO Marrero allegedly threatened to shut her store down and arrest her (**Allegation A: Abuse of Authority-Stop, § 87(2)(g)**) (**Allegation B: Abuse of Authority-Threat of Arrest, § 87(2)(g)**). The officers called for a supervisor, and Sergeant Sesame James, of the 103rd Precinct, arrived on scene. The officers conducted an investigation, where they determined that it was illegal for § 87(2)(b) to refuse service without cause. § 87(2)(b) continuously refused to notarize the customer's document and, as per the customer's request, PO Marrero completed a harassment report against § 87(2)(b). Prior to leaving the store, § 87(2)(b) allegedly requested PO Marrero and PO Schultz's names while they were within earshot of the request. The officers allegedly did not provide their names (**Allegations C and D: Abuse of Authority-Refusal to Provide Name, § 87(2)(g)**). PO Marrero did not provide § 87(2)(b) with a business card (**Allegation E: Abuse of Authority-Failure to Provide RTKA Card, § 87(2)(g)**). § 87(2)(g), § 87(4-b)

There were no summonses issued or arrests made at the result of this incident.

The investigation obtained Body-Worn Camera footage from PO Marrero (**BR01, BR02**), PO Schultz (**BR03, BR17, BR04**), and Sgt. James (**BR05, BR06**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Amanda Marrero stopped § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Amanda Marrero threatened to arrest § 87(2)(b)

PO Marrero's BWC (**BR01, BR02**) captures her entire involvement in this incident. At the 01:01 mark, PO Marrero and PO Schultz approach two individuals—a male and a female—standing outside of the UPS Franchise Store. The female individual informs the officers that § 87(2)(b) was very rude to them and refused to notarize her paperwork. The female mentioned § 87(2)(b) banging on the table and showing aggressive tendencies. At the 02:49 mark, upon entering the store, PO Marrero asks § 87(2)(b) if she would notarize the customer's paperwork. § 87(2)(b) refuses, stating she has a history with the customer and that she was not allowed there. At the 03:28 mark, after § 87(2)(b) explains that she was refusing to service the customers, PO Marrero told § 87(2)(b) that the situation would go one of two ways: she would either notarize the document or the case would turn into a criminal investigation. § 87(2)(b) confirmed that she was fine with the circumstances of refusing service. PO Marrero informs § 87(2)(b) that she would have to close the store and asks if she wanted to go to jail. At the 07:14 mark, § 87(2)(b) approaches the counter to assist a customer that is waiting. PO Marrero says, "We're not conducting business until we conduct our investigation." She told the customer to take his belongings because "no one is doing business now." PO Marrero requests § 87(2)(b)'s ID at the 19:22 mark, as well as the 35:40 mark, in order to fill out a harassment report. § 87(2)(b) provides her ID at the 36:08 mark. PO Schultz is not captured asking § 87(2)(b) any questions or playing an integral role in the criminal investigation.

§ 87(2)(b) stated (**BR07**) that she is the owner of the UPS Franchise Store where this incident took place. PO Marrero responded to the scene, demanding that she notarize a customer's documents. § 87(2)(b) walked away from PO Marrero and attempted to help another customer. PO Marrero prevented the male customer from paying. She told § 87(2)(b) that if

she continued to conduct business, her store would be shut down and she would go to jail because there was a criminal investigation occurring in the store.

§ 87(2)(b)'s allegation that PO Marrero threatened to shut down her business was pleaded as a stop because the BWC showed PO Marrero telling § 87(2)(b) that she was not free to conduct her business until the officers completed their investigation.

PO Marrero stated (**BR08**) that she and PO Schultz spoke with the 911 caller prior to entering the store, who informed them that § 87(2)(b) refused to service her because she [the 911 caller] has previously filed a complaint against § 87(2)(b). The caller also detailed § 87(2)(b)'s irate behavior, which made her fearful. Upon entering the store, she asked § 87(2)(b) what happened with the 911 caller. § 87(2)(b) stated that the 911 caller was rude, irate, and disrespectful. The officers requested surveillance footage, to see what happened, which § 87(2)(b) refused to provide. PO Marrero informed § 87(2)(b) that she could not conduct business at the time, given that the officers were conducting a criminal investigation. There was a customer attempting to pay and as § 87(2)(b) attempted to help him, PO Marrero reminded her that she could not conduct business at that time. The customer was unable to pay. PO Marrero told § 87(2)(b) that she could be arrested if she refused to notarize the document, given the penal law that prohibits notary public's from refusing service unless it falls within seven points. PO Marrero requested § 87(2)(b)'s ID multiple times to complete a harassment report for the 911 caller, which § 87(2)(b) eventually provided.

PO Schultz (**BR09**) stated that, upon arriving at the scene, the 911 callers informed him and PO Marrero that the UPS employee, § 87(2)(b) refused to provide services to them because she claimed that they were being rude. When they entered the store, PO Schultz did not remember which of the officers were specifically speaking with § 87(2)(b). He did not remember if officers asked her why she refused to notarize the documents or if she provided that information on her own. One of the officers requested the surveillance footage from § 87(2)(b)'s store, which she did not provide. He did not remember who specifically requested § 87(2)(b)'s ID, but it was requested for the harassment report that the 911 caller wanted to file.

EVENT Information § 87(2)(b) notes that the 911 caller—identified as § 87(2)(b)—called 911 regarding having a dispute with an employee at a UPS store, where the employee was refusing to provide service (**BR20**).

Complaint Report § 87(2)(b), prepared by PO Marrero, is a harassment report against § 87(2)(b) which documents the dispute between her and the 911 caller, § 87(2)(b). The narrative notes that § 87(2)(b) refused to notarize a document for § 87(2)(b) and became irate with her—slamming her hands on the counter and screaming “get out” (**BR21**).

Guiding Principle I-Article A (Page 2) of the Notary Code of Professional Responsibility outlines when a notary can and cannot refuse service, which includes the following points: A notary cannot refuse to perform their lawful and proper notarial act without due cause. A notary shall refuse service if they have knowledge, or reasonable suspicion that can be articulated, that the transaction is unlawful or improper. A notary shall not refuse to perform a lawful and proper notarial act because of the signer's race, nationality, ethnicity, citizenship, religion, politics, lifestyle, age, disability, gender, or sexual orientation, or because of disagreement with the statements or purpose of a lawful document. A notary shall not refuse to perform a lawful and proper notarial act solely because the signer is not a client or customer of the Notary or the Notary's employer (**BR19**).

New York City Administrative Code 8-107 (4)(a) notes that it shall be an unlawful discriminatory practice for any person who is the owner, franchisor, franchisee, lessor, lessee, manager, etc. of any place to refuse services of the place because of any person's actual or perceived race, creed, color, national origin, age, gender, disability, marital status, partnership status, sexual orientation, uniformed service or immigration or citizenship status—whether directly or indirectly (**BR10**).

People v. De Bour (40 N.Y.2d 210) found that officers are allowed to forcibly stop and

detain a person when they have reasonable suspicion that the person has committed, is committing, or is about to commit a felony or misdemeanor (BR11).

It is undisputed that § 87(2)(b) refused to provide notary services to the 911 caller during this incident, which is clearly reflected within the 911 communication documents that the officers had access to prior to responding to the scene. PO Marrero's BWC captures the entire incident upon the officers' arrival and does not include any allegations that § 87(2)(b)'s refusal of service was discriminatory, which is prohibited under the NYC Administrative Code.

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Amanda Marrero refused to provide her name to § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Yonatan Schultz refused to provide his name to § 87(2)(b)

Sgt. James's BWC (BR05, BR06) shows that at the 12:55 mark, as PO Marrero and PO Shultz exit the store with the complainants, Sgt. James turns to § 87(2)(b) and says, "I told you I was going to come back, don't do that," and then she says, "They're right in front of you, how did you not take their names." What § 87(2)(b) said to prompt those statements is unheard. § 87(2)(b) states that she did not know they were finished. Sgt. James provides the names Shultz and Marrero.

Neither PO Marrero's (BR01, BR02) nor PO Schultz's (BR03, BR04) BWC captures § 87(2)(b) requesting any officer's name.

§ 87(2)(b) stated (BR07) that toward the end of the incident, she was speaking with Sgt. James. As PO Marrero and PO Schultz walked out of her store, § 87(2)(b) stated that she wanted their names. § 87(2)(b) believed they were within earshot, as they were still in the store. They walked out without providing their names. Sgt. James provided the officers' names.

PO Marrero (BR08) stated that § 87(2)(b) may have requested her name at the beginning of the incident, but she did not specifically remember. She did not remember providing her information to § 87(2)(b) or if she pointed at her name plate. At the end of the encounter, PO Marrero believed that § 87(2)(b) requested her and PO Schultz's names from Sgt. James at the end of the incident. PO Marrero did not know how Sgt. James responded. PO Marrero did not hear § 87(2)(b) request her or PO Schultz names directly.

PO Schultz (BR09) did not recall § 87(2)(b) requesting his or any other officers' names prior to their leaving the store.

Sgt. James (BR12) stated that, at the end of the incident, § 87(2)(b) asked her for PO Marrero and PO Schultz's names, which she provided. Sgt. James did not witness § 87(2)(b) requesting the officers' names directly. Sgt. James did not remember if PO Marrero and PO Schultz were still inside the store at the time.

Patrol Guide Procedure 203-09 states that officers must clearly and courteously state their name, shield, rank, and command upon request (BR13).

§ 87(2)(g) the three officers' BWC videos, which capture the entire incident, do not document § 87(2)(b) directly requesting PO Marrero or PO Schultz's names or them being within earshot of any such request, § 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Amanda Marrero failed to provide § 87(2)(b) with a business card.

PO Marrero's BWC (BR01, BR02) captures PO Marrero asking § 87(2)(b) if she could notarize the customer's paperwork at the 02:49 mark. At the 07:14 mark, § 87(2)(b) approaches the counter to assist a customer that is waiting. PO Marrero says, "We're not conducting business until we conduct our investigation." She told the customer to take his belongings because "no one is doing business now." At the 19:22 and 35:40 marks, PO Marrero requests § 87(2)(b)'s ID in order to fill out a harassment report. PO Schultz is not captured asking § 87(2)(b) any questions or playing an integral role in the criminal investigation.

§ 87(2)(b) testified (BR07) that PO Marrero did not allow her to conduct business and interfered with a customer that was trying to pay for something. PO Marrero requested § 87(2)(b)'s ID in order to fill out a report against her. § 87(2)(b) did not receive any business cards as a result of the incident, nor did she request any officer's business card.

PO Marrero (BR08) responded to the UPS store regarding § 87(2)(b)'s refusal to process a civilian's documents. Upon arrival, PO Marrero asked § 87(2)(b) what happened prior to their response and § 87(2)(b) shared that she was refusing to notarize the customer's documents because they were rude and disrespectful. PO Marrero requested video footage from § 87(2)(b)'s store to see what occurred, which § 87(2)(b) refused to provide. When § 87(2)(b) tried to service a customer, PO Marrero informed her that she could not conduct business while the officers were investigating the incident. PO Marrero requested § 87(2)(b)'s ID multiple times in order to prepare a harassment report for the 911 caller, which § 87(2)(b) eventually provided. Prior to leaving the scene, PO Marrero did not provide § 87(2)(b) with a business card. § 87(2)(b) did not request a business card.

PO Schultz (BR09) stated that either he or PO Marrero requested the video footage from § 87(2)(b)'s store, as well as her ID. He did not remember how they obtained information from § 87(2)(b) about what had occurred prior to their response. PO Schultz did not see any officer provide § 87(2)(b) with a business card nor did he recall her requesting one from any officer, including himself.

Patrol Guide Procedure 203-09 states that officers are required to offer pre-printed right to know business card upon the conclusion of law enforcement activities, including stops, except in cases when a summons is issued or an arrest is made, or exigent circumstances are present. Officers must offer a generic right to know business card with their information written down if their pre-printed cards become depleted (BR13).

New York City Administrative Code 14-174 states that officers must offer a business card to any individual with which they conduct a law enforcement activity, including noncustodial questioning, at the conclusion of any such activity that does not result in an arrest or summons (BR14).

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Marrero has been a member of service for seven years. This is the first case to which she has been named a subject.
- PO Schultz has been a member of service for four years. He is named the subject in one other CCRB complaint and one allegation, which was not substantiated.

Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation.
- On April 15, 2022, the Office of the New York City Comptroller confirmed that § 87(2)(b) has not filed a notice of claim regarding this incident (BR16).
- § 87(2)(b)

Squad: 10

Investigator:	<u>Jessica Russo</u>	<u>Inv. Jessica Russo</u>	<u>08/19/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Maura R. Roche</u>	<u>IM Maura R. Roche</u>	<u>08/19/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date